

UNITED STATES DISTRICT COURT
For the District of Massachusetts

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HARTFORD FIRE INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 1:05-cv-11166-EFH
)	
TOWN OF WESTON,)	
)	
Defendant.)	
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TOWN OF WESTON'S MOTION TO STAY

In conformance with this Court's Order dated December 14, 2005, Defendant Town of Weston respectfully moves the Court to exercise its discretion to stay Plaintiff Hartford Fire Insurance Company's June 6, 2005 Complaint. The issues raised by Hartford in the action are state law claims currently being litigated in a parallel State Law Action. In the interest of conserving scarce judicial resources, as well as the parties' resources,¹ the Court should:

1. Stay Count IV of the Complaint seeking declaratory judgment because Hartford's claim for declaratory judgment involves only state law breach of contract issues, which are currently being litigated in a parallel Massachusetts Superior Court action captioned Jan Five Corp. d/b/a Alexandra Construction v. Town of Weston, et al., C.A. No. MICV 2004-02787; and

¹ Despite, and subsequent to, this Court's order that Weston file this *Motion to Stay*, Hartford has now served discovery requests on Weston, thus subjecting Weston to conduct the very duplicative litigation the *Motion to Stay* is designed to avoid. Moreover, Hartford served its discovery requests without first conferring as required by Fed.R.Civ.P. 26(d).

2. Stay the remaining breach of contract Counts (Counts I, II, and III) of the Complaint in the interest of “wise judicial administration” encouraged by the U.S. Supreme Court in *Colorado River Water Conservation District v. United States*, 424 U.S. 800, 817, 96 S.Ct.1236, 1246 (1976), for substantially the same reasons.

The Court should stay this matter until the parallel state court action has been resolved.

In support of its motion, the Town of Weston submits its Memorandum of Law with exhibits, and the Town of Weston’s Local Rule 7.1(a)(2) Certification.

WHEREFORE, the Town of Weston respectfully requests that this Court:

1. Stay the instant action pending the resolution of the parallel state court action;
2. Award the Town of Weston its fees, costs and expenses for having to prepare the instant motion; and
3. Award the Town of Weston such other, further and different relief that this Court deems just and proper.

TOWN OF WESTON
By its attorneys,

/s/ John P. Martin

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Dated: January 10, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail.

By: /s/ John P. Martin

Date: January 10, 2006